

## **REMARKS**

This application has been carefully considered in connection with the Examiner's Office Action dated December 2, 2004. Reconsideration and allowance are respectfully requested in view of the above amendment and following remarks.

Pending in this Application are Claims 14-16, 20-22, 25-27, 31-33, and 38-39.

Claims 1-13, 36 and 37 have been withdrawn from consideration and reiterated;

Claims 17, 18, 19, 23, 24, 28, 29, 30, 34, and 35 have been canceled without prejudice, and are not reiterated;

Claims 14, 20, 21, 22, 25, 31, 32, 33, 38, and have been amended; and

The amended claims find support throughout the specification, including the following sections:

Claims 14, 20, 21, and 22      Page 8, lines 22-23; Example 2, Page 16, lines 13-15; and Figure 7.

Claims 25, 31, 32, and 33      Page 8, lines 22-23; Example 2, Page 16, lines 13-15; and Figure 7.

Claims 38-39      Page 8, lines 22-23; Example 2, Page 16, lines 13-15; and Figure 7.

Applicants wish to thank the Examiner for withdrawing the obviousness-type double patenting rejections and all other rejections and objections that are not directly addressed below.

### **I. Objection to Claim Language:**

The Examiner has objected to Claims 14 and 25 for containing the phrase "to the specific portion [of] the natural killer cell surface receptor," which does not have a preposition.

Applicants have amended Claims 14 and 25 to remove the objectionable phrase. Thus, the Examiner's objection should now be moot.

## II. Objection to Comply with the Sequence Rules and Regulation:

The Examiner has objected to Claims 14, 25, and 38-39 for failing to comply with Sequence Rules and Regulations.

Applicants have provided the following for incorporating SEQID No: 1-5 in a Computer Readable Format (“CFR”):

- Sequence Listing on CD
- Sequence Listing on paper
- Statement under 37 C.F.R. 1.821(F)

## III. Rejections Under 35 U.S.C. §112, Second Paragraph

The Examiner has rejected Claims 14-16, 20-22, 25-27, and 31-33 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention. More specifically the Examiner has held that Claim 14 and Claim 25 recite the phrase “*...the proteinaceous molecule having sequence homology to the specific portion [of] the natural killer cell surface receptor,*” which is considered unclear.

Applicants have replaced the unclear statement as follows:

“.....*a monoclonal antibody with affinity toward (SEQID No.: 3), (SEQID No.: 4), or (SEQID No.: 5) the proteinaceous molecule having sequence homology to the specific portion the natural killer cell surface receptor; and....*”

## IV. Rejections Under 35 U.S.C. § 102

The Examiner has maintained rejected Claims 14, 20, 21, and 25-27 under 35 U.S.C. 102(b) as being anticipated by PCT Publication WO 99/63088 with Baker et al., listed as inventors (the Baker ‘088 Patent); and Claims 14-16, 20-22, 25-27, and 31-33 under 35 U.S.C. 102(a) and 102(e) as being anticipated by WO 01/46260 with Starling et al., listed as inventors (the Starling ‘260 Patent), for the reasons of record.

Additionally, the Examiner is of the opinion that the specific limitation in the previously amended claims indicating that the proteinaceous molecule “having” the amino acid sequence of SeqID No.: 3, 4 or 5 **DOES NOT** specifically limit the claims to the

monoclonal antibody binding to an amino acid consisting of SeqID No.: 3, 4 and 5. However, the Examiner has indicated that Claims 38 and 39 **DO** limit the monoclonal antibody to one that binds to SEQID No.: 3, 4, or 5.

Applicants have amended claims to indicate that the proteinaceous molecule is SEQID No.: 3, 4, or 5, and the monoclonal antibody binds to SEQID No.: 3, 4, or 5.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See *Verdegraal Bros. v Union Oil Co. of California*, 2 U.S.P.Q. 2d 1051, 1053 (Fed Cir 1982)).

Neither the Baker '088 Patent nor the Starling '266 Patent anticipates the claims because neither one of them describes the specific proteinaceous molecule of SEQID No.: 3, 4, or 5 via the monoclonal antibody binds to SEQID No.: 3, 4, or 5.

For these reasons, Claims 14-16, 20-22, 25-27, and 31-33 are patentable over the cited references.

If the Examiner has any other matters that pertain to the above-referenced patent application, please contact the undersigned to resolve these matters by Examiner's amendment where possible.

Respectfully Submitted,



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